

109TH CONGRESS
1ST SESSION

S. 933

To amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2005

Mr. BROWNBACK (for himself and Mr. NELSON of Nebraska) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECU-**
4 **RITY ACT.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Rural Community Hospital Assistance Act of 2005”.

7 (b) **AMENDMENTS TO SOCIAL SECURITY ACT.**—Ex-
8 cept as otherwise specifically provided, whenever in this
9 Act an amendment is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference

1 shall be considered a reference to that section or other
 2 provision of the Social Security Act.

3 **SEC. 2. ESTABLISHMENT OF RURAL COMMUNITY HOSPITAL**
 4 **(RCH) PROGRAM.**

5 (a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x)
 6 is amended by adding at the end of the following new sub-
 7 section:

8 “Rural Community Hospital; Rural Community Hospital
 9 Services

10 “(bbb)(1) The term ‘rural community hospital’ means
 11 a hospital (as defined in subsection (e)) that—

12 “(A) is located in a rural area (as defined in
 13 section 1886(d)(2)(D)) or treated as being so lo-
 14 cated pursuant to section 1886(d)(8)(E);

15 “(B) subject to paragraph (2), has less than 51
 16 acute care inpatient beds, as reported in its most re-
 17 cent cost report;

18 “(C) makes available 24-hour emergency care
 19 services;

20 “(D) subject to paragraph (3), has a provider
 21 agreement in effect with the Secretary and is open
 22 to the public as of January 1, 2005; and

23 “(E) applies to the Secretary for such designa-
 24 tion.

1 “(2) For purposes of paragraph (1)(B), beds in
2 a psychiatric or rehabilitation unit of the hospital
3 which is a distinct part of the hospital shall not be
4 counted.

5 “(3) Subparagraph (1)(D) shall not be con-
6 strued to prohibit any of the following from quali-
7 fying as a rural community hospital:

8 “(A) A replacement facility (as defined by
9 the Secretary in regulations in effect on Janu-
10 ary 1, 2005) with the same service area (as de-
11 fined by the Secretary in regulations in effect
12 on such date).

13 “(B) A facility obtaining a new provider
14 number pursuant to a change of ownership.

15 “(C) A facility which has a binding written
16 agreement with an outside, unrelated party for
17 the construction, reconstruction, lease, rental,
18 or financing of a building as of January 1,
19 2005.

20 “(4) Nothing in this subsection shall be con-
21 strued as prohibiting a critical access hospital from
22 qualifying as a rural community hospital if the crit-
23 ical access hospital meets the conditions otherwise
24 applicable to hospitals under subsection (e) and sec-
25 tion 1866.

1 “(2) the amount of payment provided for under
2 the prospective payment system for inpatient hos-
3 pital services under section 1886(d).”.

4 (2) OUTPATIENT SERVICES.—Section 1834 (42
5 U.S.C. 1395m) is amended by adding at the end the
6 following new subsection:

7 “(n) PAYMENT FOR OUTPATIENT SERVICES FUR-
8 NISHED IN RURAL COMMUNITY HOSPITALS.—The
9 amount of payment under this part for outpatient services
10 furnished in a rural community hospital is, at the election
11 of the hospital in the application referred to in section
12 1861(bbb)(1)(E)—

13 “(1) 101 percent of the reasonable costs of pro-
14 viding such services, without regard to the amount
15 of the customary or other charge and any limitation
16 under section 1861(v)(1)(U), or

17 “(2) the amount of payment provided for under
18 the prospective payment system for covered OPD
19 services under section 1833(t).”.

20 (3) HOME HEALTH SERVICES.—

21 (A) EXCLUSION FROM HOME HEALTH
22 PPS.—

23 (i) IN GENERAL.—Section 1895 (42
24 U.S.C. 1395fff) is amended by adding at
25 the end the following:

1 “(f) EXCLUSION.—

2 “(1) IN GENERAL.—In determining payments
3 under this title for home health services furnished on
4 or after October 1, 2005, by a qualified RCH-based
5 home health agency (as defined in paragraph (2))—

6 “(A) the agency may make a one-time elec-
7 tion to waive application of the prospective pay-
8 ment system established under this section to
9 such services furnished by the agency; and

10 “(B) in the case of such an election, pay-
11 ment shall be made on the basis of 101 percent
12 of the reasonable costs incurred in furnishing
13 such services as determined under section
14 1861(v), but without regard to the amount of
15 the customary or other charges with respect to
16 such services or the limitations established
17 under paragraph (1)(L) of such section.

18 “(2) QUALIFIED RCH-BASED HOME HEALTH
19 AGENCY DEFINED.—For purposes of paragraph (1),
20 a ‘qualified RCH-based home health agency’ is a
21 home health agency that is a provider-based entity
22 (as defined in section 404 of the Medicare, Medicaid,
23 and SCHIP Benefits Improvement and Protection
24 Act of 2000 (Appendix F, 114 Stat. 2763A–506), as
25 enacted into law by section 1(a)(6) of Public Law

1 106–554) of a rural community hospital that is lo-
 2 cated—

3 “(A) in a county in which no main or
 4 branch office of another home health agency is
 5 located; or

6 “(B) at least 35 miles from any main or
 7 branch office of another home health agency.”.

8 (ii) CONFORMING CHANGES.—

9 (I) PAYMENT UNDER PART A.—
 10 Section 1814(b) (42 U.S.C. 1395f(b))
 11 is amended by inserting “or with re-
 12 spect to services to which section
 13 1895(f) applies” after “equipment” in
 14 the matter preceding paragraph (1).

15 (II) PAYMENTS UNDER PART
 16 B.—Section 1833(a)(2)(A) (42 U.S.C.
 17 1395l(a)(2)(A)) is amended by strik-
 18 ing “the prospective payment system
 19 under”.

20 (III) PER VISIT LIMITS.—Section
 21 1861(v)(1)(L)(i) (42 U.S.C.
 22 1395x(v)(1)(L)(i)) is amended by in-
 23 sserting “(other than by a qualified
 24 RCH-based home health agency (as
 25 defined in section 1895(f)(2))” after

1 “with respect to services furnished by
2 home health agencies”.

3 (iii) CONSOLIDATED BILLING.—

4 (I) RECIPIENT OF PAYMENT.—

5 Section 1842(b)(6)(F) (42 U.S.C.
6 1395u(b)(6)(F)) is amended by in-
7 sserting “and excluding home health
8 services to which section 1895(f) ap-
9 plies” after “provided for in such sec-
10 tion”.

11 (II) EXCEPTION TO EXCLUSION

12 FROM COVERAGE.—Section 1862(a)

13 (42 U.S.C. 1395y(a)) is amended by

14 inserting before the period at the end

15 of the second sentence the following:

16 “and paragraph (21) shall not apply

17 to home health services to which sec-

18 tion 1895(f) applies”.

19 (4) EXEMPTION FROM 30-PERCENT REDUCTION

20 IN REIMBURSEMENT FOR BAD DEBT.—Section

21 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amend-

22 ed by inserting “(other than for a rural community

23 hospital)” after “In determining such reasonable

24 costs for hospitals”.

1 (c) BENEFICIARY COST-SHARING FOR OUTPATIENT
2 SERVICES.—Section 1834(n) (as added by subsection
3 (b)(2)) is amended—

4 (1) by redesignating paragraphs (1) and (2) as
5 subparagraphs (A) and (B), respectively;

6 (2) by inserting “(1)” after “(n)”; and

7 (3) by adding at the end the following:

8 “(2) The amounts of beneficiary cost-sharing for out-
9 patient services furnished in a rural community hospital
10 under this part shall be as follows:

11 “(A) For items and services that would have
12 been paid under section 1833(t) if provided by a
13 hospital, the amount of cost-sharing determined
14 under paragraph (8) of such section.

15 “(B) For items and services that would have
16 been paid under section 1833(h) if furnished by a
17 provider or supplier, no cost-sharing shall apply.

18 “(C) For all other items and services, the
19 amount of cost-sharing that would apply to the item
20 or service under the methodology that would be used
21 to determine payment for such item or service if pro-
22 vided by a physician, provider, or supplier, as the
23 case may be.”.

24 (d) CONFORMING AMENDMENTS.—

1 (1) PART A PAYMENT.—Section 1814(b) (42
2 U.S.C. 1395f(b)) is amended in the matter pre-
3 ceding paragraph (1) by inserting “other than inpa-
4 tient hospital services furnished by a rural commu-
5 nity hospital,” after “critical access hospital serv-
6 ices,”.

7 (2) PART B PAYMENT.—

8 (A) IN GENERAL.—Section 1833(a) (42
9 U.S.C. 1395l(a)) is amended—

10 (i) in paragraph (2), in the matter be-
11 fore subparagraph (A), by striking “and
12 (I)” and inserting “(I), and (K)”;

13 (ii) by striking “and” at the end of
14 paragraph (8);

15 (iii) by striking the period at the end
16 of paragraph (9) and inserting “; and”;
17 and

18 (iv) by adding at the end the fol-
19 lowing:

20 “(10) in the case of outpatient services fur-
21 nished by a rural community hospital, the amounts
22 described in section 1834(n).”.

23 (B) AMBULANCE SERVICES.—Section
24 1834(l)(8) (42 U.S.C. 1395m(l)(8)) is amend-
25 ed—

1 (i) in the heading, by striking “CRIT-
2 ICAL ACCESS HOSPITALS” and inserting
3 “CERTAIN FACILITIES”;

4 (ii) in the matter preceding subpara-
5 graph (A), by striking “the reasonable
6 costs” and inserting “101 percent of the
7 reasonable costs”;

8 (iii) by striking “or” at the end of
9 subparagraph (A);

10 (iv) by redesignating subparagraph
11 (B) as subparagraph (C);

12 (v) by inserting after subparagraph
13 (A) the following new subparagraph:

14 “(B) by a rural community hospital (as de-
15 fined in section 1861(bbb)(1)), or”;

16 (vi) in subparagraph (C), as so redesi-
17 gnated, by inserting “or a rural commu-
18 nity hospital” after “critical access hos-
19 pital”.

20 (3) TECHNICAL AMENDMENTS.—

21 (A) CONSULTATION WITH STATE AGEN-
22 CIES.—Section 1863 (42 U.S.C. 1395z) is
23 amended by striking “and (dd)(2)” and insert-
24 ing “(dd)(2), (mm)(1), and (bbb)(1)”.

1 (B) PROVIDER AGREEMENTS.—Section
 2 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is
 3 amended by inserting “section 1834(n)(2),”
 4 after “section 1833(b),”.

5 (e) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to items and services furnished on
 7 or after October 1, 2005.

8 **SEC. 3. REMOVING BARRIERS TO ESTABLISHMENT OF DIS-**
 9 **TINCT PART UNITS BY RCH AND CAH FACILI-**
 10 **TIES.**

11 (a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C.
 12 1395(d)(1)(B)) is amended by striking “a distinct part of
 13 the hospital (as defined by the Secretary)” in the matter
 14 following clause (v) and inserting “a distinct part (as de-
 15 fined by the Secretary) of the hospital or of a critical ac-
 16 cess hospital or a rural community hospital”.

17 (b) REVISION OF LIMITS ON AUTHORITY FOR CAHS
 18 TO ESTABLISH PSYCHIATRIC AND REHABILITATION DIS-
 19 TINCT PART UNITS.—Section 1820(c)(2)(E)(iv) (42
 20 U.S.C. 1395i–4(c)(2)(E)(iv)) is amended—

21 (1) by striking “If” and inserting “If the Sec-
 22 retary finds that”;

23 (2) by striking “with respect to a cost reporting
 24 period”; and

1 (3) by striking “during such period” and insert-
2 ing “after such finding is made”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to determinations with respect to
5 distinct part unit status that are made on or after October
6 1, 2005.

7 **SEC. 4. IMPROVEMENTS TO MEDICARE CRITICAL ACCESS**
8 **HOSPITAL (CAH) PROGRAM.**

9 (a) PAYMENTS TO HOME HEALTH AGENCIES OWNED
10 AND OPERATED BY A CAH.—Section 1895(f) (42 U.S.C.
11 1395fff(f)), as added by section 2(b)(3), is further amend-
12 ed by inserting “or by a home health agency that is owned
13 and operated by a critical access hospital (as defined in
14 section 1861(mm)(1))” after “as defined in paragraph
15 (2))”.

16 (b) PAYMENTS TO CAH-OWNED SNFs.—

17 (1) IN GENERAL.—Section 1888(e) (42 U.S.C.
18 1395yy(e)) is amended—

19 (A) in paragraph (1), by striking “and
20 (12)” and inserting “(12), and (13)”; and

21 (B) by adding at the end thereof the fol-
22 lowing:

23 “(13) EXEMPTION OF CAH FACILITIES FROM
24 PPS.—In determining payments under this part for
25 covered skilled nursing facility services furnished on

1 or after October 1, 2005, by a skilled nursing facil-
2 ity that is a distinct part unit of a critical access
3 hospital (as defined in section 1861(mm)(1)) or is
4 owned and operated by a critical access hospital—

5 “(A) the prospective payment system es-
6 tablished under this subsection shall not apply;
7 and

8 “(B) payment shall be made on the basis
9 of 101 percent of the reasonable costs incurred
10 in furnishing such services as determined under
11 section 1861(v), but without regard to the
12 amount of the customary or other charges with
13 respect to such services or the limitations estab-
14 lished under subsection (a)”.

15 (2) CONFORMING CHANGES.—

16 (A) IN GENERAL.—Section 1814(b) (42
17 U.S.C. 1395f(b)), as amended by section
18 2(d)(1), is amended in the matter preceding
19 paragraph (1)—

20 (i) by inserting “other than a skilled
21 nursing facility providing covered skilled
22 nursing facility services (as defined in sec-
23 tion 1888(e)(2)) or posthospital extended
24 care services to which section 1888(e)(13)
25 applies,” after “inpatient hospital services

1 furnished by a rural community hospital,”;
 2 and

3 (ii) by striking “1813, 1886,” and in-
 4 sserting “1813, 1886, 1888,”.

5 (B) CONSOLIDATED BILLING.—

6 (i) RECIPIENT OF PAYMENT.—Section
 7 1842(b)(6)(E) (42 U.S.C. 1395u(b)(6)(E))
 8 is amended by inserting “services to which
 9 paragraph (7)(C) or (13) of section
 10 1888(e) applies and” after “other than”.

11 (ii) EXCEPTION TO EXCLUSION FROM
 12 COVERAGE.—Section 1862(a)(18) (42
 13 U.S.C. 1395y(a)(18)) is amended by in-
 14 sserting “(other than services to which
 15 paragraph (7)(C) or (13) of section
 16 1888(e) applies)” after “section
 17 1888(e)(2)(A)(i)”.

18 (c) PAYMENTS TO DISTINCT PART PSYCHIATRIC OR
 19 REHABILITATION UNITS OF CAHS.—

20 (1) IN GENERAL.—Section 1886(b) (42 U.S.C.
 21 1395(b)) is amended—

22 (A) in paragraph (1), by inserting “, other
 23 than a distinct part psychiatric or rehabilitation
 24 unit to which paragraph (8) applies,” after
 25 “subsection (d)(1)(B)”; and

1 (B) by adding at the end the following:

2 “(8) EXEMPTION OF CERTAIN DISTINCT PART
3 PSYCHIATRIC OR REHABILITATION UNITS FROM
4 COST LIMITS.—In determining payments under this
5 part for inpatient hospital services furnished on or
6 after October 1, 2005, by a distinct part psychiatric
7 or rehabilitation unit (described in the matter fol-
8 lowing clause (v) of subsection (d)(1)(B)) of a crit-
9 ical access hospital (as defined in section
10 1861(mm)(1))—

11 “(A) the limits imposed under the pre-
12 ceding paragraphs of this subsection shall not
13 apply; and

14 “(B) payment shall be made on the basis
15 of 101 percent of the reasonable costs incurred
16 in furnishing such services as determined under
17 section 1861(v), but without regard to the
18 amount of the customary or other charges with
19 respect to such services.”.

20 (2) CONFORMING AMENDMENT.—Section
21 1814(l) (42 U.S.C. 1395f(l)) is amended by insert-
22 ing “furnished during fiscal year 2005” after “such
23 unit”.

24 (d) ELIMINATION OF ISOLATION TEST FOR COST-
25 BASED CAH AMBULANCE SERVICES.—Paragraph (8) of

1 section 1834(l) (42 U.S.C. 1395m(l)) is amended by strik-
2 ing the comma at the end of subparagraph (B) and all
3 that follows and inserting a period.

4 (e) TECHNICAL CORRECTIONS.—

5 (1) SECTION 403(b) OF BBRA 1999.—Section
6 1820(b)(2) (42 U.S.C. 1395i-4(b)(2)) is amended by
7 striking “nonprofit or public hospitals” and insert-
8 ing “hospitals”.

9 (2) SECTION 203(b) OF BIPA 2000.—Section
10 1883(a)(3) (42 U.S.C. 1395tt(a)(3)) is amended—

11 (A) by inserting “section 1861(v)(1)(G)
12 or” after “Notwithstanding”; and

13 (B) by striking “covered skilled nursing fa-
14 cility”.

15 (f) EFFECTIVE DATES.—

16 (1) ELIMINATION OF REQUIREMENTS.—The
17 amendments made by subsections (a) and (c) shall
18 apply to services furnished on or after October 1,
19 2005.

20 (2) TECHNICAL CORRECTIONS.—

21 (A) BBRA.—The amendment made by sub-
22 section (e)(1) shall be effective as if included in
23 the enactment of section 403(b) of the Medi-
24 care, Medicaid, and SCHIP Balanced Budget
25 Refinement Act of 1999 (Appendix F, 113 Stat.

1 1501A–321), as enacted into law by section
2 1000(a)(6) of Public Law 106–113.

3 (B) BIPA.—The amendments made by sub-
4 section (e)(2) shall be effective as if included in
5 the enactment of section 203(b) of the Medi-
6 care, Medicaid, and SCHIP Benefits Improve-
7 ment and Protection Act of 2000 (Appendix F,
8 114 Stat. 2763A–463), as enacted into law by
9 section 1(a)(6) of Public Law 106–554.

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